	Case 5:06-cv-02830-JF Document 53 Filed 06/19/09 Page 1 of 3	
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8	NOT FOR CITATION	
9	IN THE UNITED STATES DISTRICT COURT	
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12	REX MCCURDY,) No. C 06-02830 JF (PR)	
13	Plaintiff, ORDER OF DISMISSAL	
14	vs.	
15	GARY SIMPSON, et al.,	
16	Defendants.	
17		
18	Plaintiff filed the instant <u>pro</u> <u>se</u> civil rights complaint under 42 U.S.C. § 1983. A	
19	copy of the Court's "Order Addressing Pending Motions" (Docket No. 50) was mailed to	
20	Plaintiff at his last known address, but the order was returned on March 31, 2009, as	
21	undeliverable because Plaintiff was no longer in custody. (See Docket No. 51.) The	
22	Court ordered Plaintiff by order filed April 29, 2009, to inform the Court of his current	
23	address no later than thirty days from the date the order was filed. Plaintiff was advised	
24	that failure to timely do so shall result in dismissal of this action without prejudice under	
25	Federal Rule of Civil Procedure 41(b) and Local Rule 3-11(b). The time has since	
26	passed, and Plaintiff has failed to comply.	
27	Pursuant to Federal Rule of Civil Procedure 41(b), a district court may <u>sua sponte</u>	
28	dismiss an action for failure to prosecute or to comply with a court order. See Link v.	
	Order of Dismissal P:\PRO-SE\SJ.JF\CR.06\McCurdy830_3-11dism.wpd 1	

Wabash R.R., 370 U.S. 626, 633 (1962); McKeever v. Block, 932 F.2d 795, 797 (9th Cir. 1 2 1991). But such a dismissal should only be ordered when the failure to comply is unreasonable. See id. A district court should afford the litigant prior notice of its 3 intention to dismiss. See Malone v. United States Postal Serv., 833 F.2d 128, 133 (9th 4 5 Cir. 1987). Pursuant to Northern District Local Rule 3-11 a party proceeding pro se must 6 7 promptly file a notice of change of address while an action is pending. See L.R. 3-11(a). 8 The Court may, without prejudice, dismiss a complaint when: (1) mail directed to the <u>pro</u> se party by the Court has been returned to the Court as not deliverable, and (2) the Court fails to receive within sixty days of this return a written communication from the pro se 10 party indicating a current address. See L.R. 3-11(b). 11 Plaintiff has failed to comply with the Court's order to provide his current address, 12 and provided with notice of the Court's intention to dismiss. Furthermore, more than 13 sixty days have passed since the Court's orders addressed to Plaintiff were returned as 14 undeliverable, and the Court has not received a notice from Plaintiff of a new address. 15 Accordingly, the instant civil rights action is DISMISSED without prejudice pursuant to 16 Federal Rule of Civil Procedure 41(b) and Local Rule 3-11(b) of the Northern District 17 18 Local Rules. 19 IT IS SO ORDERED. 20 6/5/09 DATED: 21 United States District Judge 22 23 24 25

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UNITED STATES DISTRICT COURT FOR THE

NORTHERN DISTRICT OF CALIFORNIA

REX A. MCCURDY,	Case Number: CV06-02830 JF	
Plaintiff,	CERTIFICATE OF SERVICE	
v.		
GARY L. SIMPSON, et al.,		
Defendants.	/	
I, the undersigned, hereby certify that I Court, Northern District of California.	am an employee in the Office of the Clerk, U.S. District	
by placing said copy(ies) in a postage p	, I SERVED a true and correct copy(ies) of the attached, paid envelope addressed to the person(s) hereinafter listed, Mail, or by placing said copy(ies) into an inter-office t's office.	
Rex A. McCurdy 000035-6 Napa County Jail 1111 Third Street Napa, CA 94559		
Dated: 6/19/09		
	Richard W. Wieking, Clerk	